

ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

June 18, 2004

VIA HAND DELIVERY

The Honorable Bruce Duke
Executive Director
Public Service Commission of South Carolina
Synergy Business Park, Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210

**Re: SCCTA/Farmers Telephone Cooperative, Inc.
Case No. 2004-110-C**

Dear Mr. Duke:

On behalf of South Carolina Cable Television Association we are filing a Response to Motion for Paper Hearing in the above-referenced case. Please stamp the extra copies provided as proof of filing and return them with our courier. By copy of this letter we are serving the same on counsel for the Respondents. If you have any questions, please have someone on your staff contact me.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.



Frank R. Ellerbe, III

FRE/abw
Enclosure

cc w. enc.: F. David Butler, Esquire (Via Hand Delivery)
Elliott F. Elam, Jr., Esquire (Via fax & U.S. Mail)
Gene DuRant, Esquire (Via fax & U.S. Mail)
James E. Spearman (Via Hand Delivery)
Nancy Horne (Via fax & U.S. Mail)



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COMMISSION
CABLE

SOUTH CAROLINA CABLE
TELEVISION ASSOC.'S RESPONSE
TO MOTION FOR PAPER HEARING

companies. Broadband service of this type can also be used to provide video service in direct competition with the cable television offerings of cable television companies. Thus it appears that in this proceeding Farmers is seeking to have its captive telephone rate-payers – through accelerated depreciation – pay for investment intended to provide unregulated and competitive services. This is potentially a classic example of cross-subsidization prohibited by state and federal law.

3. The depreciation rate of 25% is unprecedented. SCCTA is informed and believes that F.C.C. depreciation rates for digital switches are based on useful lives of 12 to 18 years. Under these circumstances, a request that the Commission approve depreciation of the same equipment over 4 years is extraordinary and anything but routine.

4. Despite the assertion in the Farmers' application (repeated in the Staff motion) that the request would have no effect on the state Universal Service Fund, this request would almost certainly have an effect on the USF. Under the Commission's guidelines for the USF each incumbent LEC, including Farmers, is under an obligation to report its costs. The next time Farmers reports its costs the depreciation rate of 25%, if approved, would drive up the amount of money Farmers could recover from the USF. The potential size of the fund would grow significantly. If other LECs follow Farmers' lead and apply for routine approval of 25% depreciation rates for digital switches the size of the USF could grow exponentially. It is questionable whether the Commission could deny similar treatment to other LECs if it is approved for Farmers. See *330 Concord Street Association v. Campsen*, 309 S.C. 514, 424 S.E.2d (Ct.App. 1992) (administrative agency cannot act arbitrarily in failing to follow precedent).

For the foregoing reasons SCCTA believes that the relief sought by Farmers in this docket is extraordinary and not routine, that the matter deserves a full and complete hearing by the Commission, and that the Staff's motion for a paper hearing should be denied.

Respectfully submitted,

ROBINSON, McFADDEN & MOORE, P.C.

By



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Bonnie D. Shealy
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(803) 779-8900

Attorneys for South Carolina Cable
Television Association

Columbia, South Carolina

June 18, 2004.

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2004-110-C**

In Re:


Farmers Telephone Cooperative,
Inc.
Request for Approval of New
Depreciation Rates for Certain
Central Office Equipment

CERTIFICATE OF SERVICE

This is to certify that I, Angela B. Wedekind, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **South Carolina Cable Television Association's Response to Motion for Paper Hearing** in the foregoing matter by Hand Delivery via courier:

F. David Butler, Esquire
Public Service Commission of South Carolina
Koger Executive Center
Synergy Business Park, Saluda Bldg.
101 Executive Center Drive
Columbia, SC 29210

Dated at Columbia, South Carolina this 18th day of June 04.


Angela B. Wedekind

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2004-110-C

SC PUBLIC SERVICE
COMMISSION

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In Re:)
)
Farmers Telephone Cooperative,)
Inc.)
Request for Approval of New)
Depreciation Rates for Certain)
Central Office Equipment)
)


CERTIFICATE OF SERVICE

This is to certify that I, Angela B. Wedekind, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **South Carolina Cable Television Association's Response to Motion for Paper Hearing** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Gene DuRant, Esquire
Schwartz McLeod DuRant & Jordan
10 Law Range
Sumter, SC 29150

Elliott F. Elam, Jr., Esquire
South Carolina Department of Consumer Affairs
Post Office Box 5757
Columbia, SC 29250-5757

Dated at Columbia, South Carolina this 18th day of June 04.


Angela B. Wedekind